

WE ARE YOUR DOL



Division of Labor Standards

The Division of Labor Standards and Your Business

This form explains what to expect during and after an investigation.

Labor Standards visits employers to:

- Investigate complaints
- Ensure employers are in compliance with laws and regulations
- Provide important information

Labor Standards enforces laws that protect almost all workers in New York State. These laws cover:

- Minimum wage and overtime payment
- Payment of wages and wage supplements (fringe benefits)
- Day of rest and meal period requirements
- Farm labor rules
- Child labor restrictions
- Garment industry employment conditions

During a first visit, Labor Standards Investigators will:

- Introduce themselves and present credentials (a business card or badge)
- Always be professional and courteous
- Visit without an appointment. The law allows unannounced visits; to enter and inspect any place where workers are working
- Not provide a reason for the visit (complaints are confidential)
- Interview employees in private
- Review records on the premises
- Request any additional records in writing, and schedule a follow up visit if needed
- Offer and provide interpretation services if needed

To ensure the investigation runs smoothly, the employer should:

- Cooperate with investigators at all times
- Facilitate the inspection, employee interviews, and records review
- Not interfere with private employee interviews
- Not cover up for mistakes or create fake documents
- Understand that hiring a private attorney does not limit Division access to the worksite, the employees, or the business owner/manager or payroll records
- Take no negative action against employees who made the complaint, are suspected of having made the complaint, cooperated with the investigation, or spoke with the investigator

Steps in the Labor Standards Enforcement Process

- 1) **Investigation** - An investigator will inspect the premises, interview the employer and employees, review books and records, and revisit, if needed.
- 2) **Findings** - The employer may be served with a notice of violation(s) and wage amounts owed, and/or a letter explaining the violations found. The letter will explain the evidence reviewed, the determination made, how to correct violations, and what to do next.
- 3) **Resolution** – The employer will have the opportunity to review the notice and findings with the investigator and discuss a resolution. If employers disagree or don't understand, they may speak with a Senior Investigator.
- 4) **Case Conference** - Employers may be asked to attend a District Meeting to resolve outstanding issues or a Compliance Conference, which is an informal action similar to mediation, to come to a resolution.
- 5) **Administrative Hearing** - If employers fail to comply, make restitution, or if they disagree with investigation findings, the Division will issue an Order to Comply (Order), which includes interest and penalties. An Order allows 60 days to make payment or request an appeal to the Industrial Board of Appeals (IBA). The IBA provides an impartial review of the Order.
- 6) **Civil or Criminal Proceedings** - If no timely appeal of the Order is filed and the employer has not made payment, the Division will attempt to enter the Order as a civil judgment for any outstanding money due.
- 7) **Criminal Proceedings** - A criminal prosecution referral for a misdemeanor can occur for the violation of labor law, not for the monetary amounts due affected parties.
- 8) **As of September 2023, Wage theft is larceny under New York State Penal Law section 155. Failure to pay wages may result in referral to a local District Attorney for consideration for criminal prosecution.**